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AMERICAN GENERAL LIFE INSURANCE COMPANY
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9 UNITED STATES DISTRICT COURT
10 CENTRAL DISTRICT OF CALIFORNIA
11

12 AMERICAN GENERAL LIFE
INSURANCE COMPANY,

13 Plaintiff,
14

15 v.

16 JERRY STEVENS, STEVEN A.
BENSON and DAVID ADAMS

17 Defendants.
18

No. 2:14-cv-3156

**PLAINTIFF AMERICAN GENERAL
LIFE INSURANCE COMPANY'S
ORIGINAL COMPLAINT FOR
DECLARATORY RELIEF AND
RESCISSION**

19 Plaintiff, American General Life Insurance Company, a Texas corporation, by and
20 through its undersigned counsel, files this Original Complaint for Declaratory Judgment
21 and Rescission against Defendant Jerry Stevens as follows:

22 **INTRODUCTION**

23 1. This is an action for declaratory relief and rescission brought against Jerry
24 Stevens, Steven A. Benson and David Adams seeking a declaration that four separate
25 \$500,000 term life insurance policies bearing the numbers 212020992, 212020993,
26 212020994 and 212020995 (the "Policies") are null, void, and rescinded *ab initio* due to
27 the material misrepresentations, omission, concealments, or statements made on Policy
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1 Applications. This action, seeking rescission of the Policies and a declaration that no
2 insurance was ever in effect, is brought pursuant to the Federal Declaratory Judgment
3 Statute, 28 U.S.C. §§ 2201, et seq., and Federal Rule of Civil Procedure 57.

4 **PARTIES**

5 2. American General is a Texas insurance company authorized to transact the
6 business of insurance in California. American General is organized under the laws of
7 Texas and its principal place of business is located in Houston, Texas. As such, American
8 General is a citizen of the state of Texas within the meaning and intent of 28 U.S.C. §
9 1332.

10 3. Defendant Jerry Stevens (“Stevens”) is a resident of and domiciled in Los
11 Angeles County, California. As such, Stevens is a citizen of the State of California within
12 the meaning and intent of 28 U.S.C. § 1332.

13 4. Defendant Steven A. Benson (“Benson”) is a resident of and domiciled in
14 Snohomish County, Washington. As such, Benson is a citizen of the State of Washington
15 within the meaning and intent of 28 U.S.C. § 1332.

16 5. Defendant David Adams (“Adams”) is a resident of and domiciled in Los
17 Angeles County, California. As such, Adams is a citizen of the State of California within
18 the meaning and intent of 28 U.S.C. § 1332.

19 **JURISDICTION AND VENUE**

20 6. This Court has jurisdiction over all parties of this lawsuit under 28 U.S.C.
21 § 1332(a)(1) because American General is a citizen of a different state (Texas) than each
22 Defendant (California or Washington) and the amount in controversy exceeds \$75,000,
23 exclusive of attorneys’ fees, interest, and costs. Therefore, this Court has diversity
24 jurisdiction pursuant to 28 U.S.C. § 1332.

25 7. This Court has jurisdiction over this declaratory judgment action pursuant to
26 Federal Rule of Civil Procedure 57 and 28 U.S.C. §§ 2201 and 2202 which grant the
27 United States District Courts jurisdiction to declare the “rights and other legal relations of
28

1 any interested party making such a declaration, whether or not further relief is or could be
2 sought.”

3 8. Venue is proper for this action pursuant to 28 U.S.C. § 1391 because
4 Stevens and Adams reside in Los Angeles County, the Policy Applications for all four
5 policies were taken in Los Angeles County California, and the policies were issued as
6 California contracts. All or a substantial portion of the events giving rise to the cause of
7 action asserted herein occurred in the state of California.

8 **FACTUAL BACKGROUND**

9 9. American General is, and during all relevant times has been, in the business
10 of underwriting and issuing policies of life insurance and is authorized to transact business
11 in the state of California.

12 10. On April 28, 2012, four applications for life insurance were completed in
13 writing to AGLIC seeking the issuance of the Policies insuring the life of defendant, Jerry
14 Stevens. Upon information and belief, Jerry Stevens, or some other person, applied for
15 these policies (hereafter the “applicant”).

16 11. The April 28, 2012 applications contained the following affirmations and
17 notices:

18 I, the Primary Proposed Insured (and any Owner or Additional Proposed
19 Insured signing below), by my signature set forth hereafter:

20 Agree that all statements and answers in this application are complete and
21 true to the best of my knowledge and belief and are the basis for any policy
22 issued by the Company and agree that no information shall be deemed to
23 have been given to the Company unless it is set forth in this application or in
any supplemental application.

24 Notice: If a proposed Insured’s answers on this application are incorrect or
25 untrue, the Company may have the right to deny benefits and/or rescind
coverage.

26 12. On May 3, 2012, an independent medical examiner submitted an additional
27 application to AGLIC for the Policies.
28

1 13. The May 3, 2012 application contained the following affirmations and
2 notices:

3 I agree that all statements and answers in this application are complete and true to
4 the best of my knowledge and belief. I agree that this application will become a
5 part of the policy applied for and any policy will be issued on the basis of my
6 answers and statements. I agree that no agent of the Company or the Medical
7 Examiner has authority to waive any answer or otherwise modify this application
8 or bind the Company in any way by making any promise or representation which is
9 not set out in writing in this application.

10 14. On the basis of statements and representations contained on the April 28,
11 2012 and the May 3, 2012 applications and in reliance on the applicant's complete candor,
12 honesty, and openness in disclosing information in response to the questions presented on
13 the Applications, American General approved and delivered the Policies each with an
14 effective date of June 18, 2012. Each one of the Policies was issued to provide a death
15 benefit of \$500,000.

16 15. Four policy change applications dated June 15, 2012 were completed in
17 writing to AGLIC requesting the Policies be issued as a different term life policy plan, the
18 addition of premium waiver benefits, a premium mode change and the removal of the
19 accelerated benefit rider from policy no. 212020995. The policy change applications
20 contain the same material misrepresentations and omissions regarding Steven's health and
21 medical history as the April 28, 2012 applications. These changes were approved on July
22 10, 2012 and processed on July 11, 2012.

23 16. The policy change applications contain the following Acknowledgement:

24 I, the Primary Proposed Insured (and any Owner or Additional Proposed
25 Insured signing below), by my signature set forth hereafter:

26 AGREE to the following:

- 27 (a) All statements and answers in this application are complete and true to
28 the best of my knowledge and belief.
- (b) If the policy is reinstated and/or coverage under the policy is increased,
each element of coverage will be subject to all policy limitations and
provisions applicable to such element of coverage, including but not
limited to, all incontestable and suicide provisions,

1 17. The applicant responded to clear, direct questions seeking material
2 information regarding his history of treatment, consultations, and diagnosis of medical
3 illnesses or diseases. The answers provided to certain of these questions were false and/or
4 materially incomplete and were material to American General's acceptance of the risk
5 assumed.¹

6 18. In completing the April 28, 2012 applications, the May 3, 2012 application
7 and the June 15, 2012 applications (collectively, the "Applications"), a series of questions
8 seeking material information regarding, among other things, the health and medical
9 history of Stevens. In completing the Applications, the applicant knew that he was
10 required to provide complete, accurate, and honest answers to the questions presented on
11 the Applications. The applicant also knew that American General would rely upon the
12 answers recorded on the Applications in determining whether Jerry Stevens was insurable
13 and qualified for the insurance sought through the Applications.

14 19. By an Absolute Assignment of Life Insurance Policy dated February 12,
15 2013, ownership of policy number 212020992 was assigned to Benson, who as assignee
16 received "... all incidents of ownership and control, and all right, title and interest in ..."
17 policy number 212020992.

18 20. By an Absolute Assignment of Life Insurance Policy dated February 12,
19 2013, ownership of policy number 212020993 was assigned to Adams, who as assignee
20 received "... all incidents of ownership and control, and all right, title and interest in ..."
21 policy number 212020993.

22 21. The applicant made misrepresentations of material fact, concealed material
23 facts, and/or otherwise failed to accurately, honestly, and/or truthfully answer and disclose
24 material information in response to the questions presented on the Applications regarding
25 his health and medical history. The applicant either intentionally or unintentionally made
26

27 ¹ Pursuant to federal privacy laws and the Federal Rules of Civil Procedure, American general is not in a position to
28 further elaborate on the exact nature of the material misrepresentations made to American General by Nick Williams.
If required at some later time, American General will file relevant materials under seal with the court.

1 the misrepresentations knowing American General would rely on them when assessing the
2 Applications. American General did in fact rely on these representations in assessing the
3 risk and/or hazard to be assumed and did not know that these representations were false.
4 Had the applicant provided accurate responses on the Applications, American General, in
5 good faith, would not have issued the Policies. The answers were material to American
6 General's decision to issue the Policies.

7 22. American General brings this action seeking rescission of the Policies and
8 an order declaring the Policies void *ab initio*.

9 WHEREFORE, American General prays for judgment as set forth below.

10 **COUNT I – CLAIM FOR DECLARATORY RELIEF**

11 23. American General incorporates herein each of its allegations contained in
12 paragraphs 1-22 above.

13 24. An actual controversy has arisen and now exists between American General
14 and Defendants concerning their respective rights and duties under the Policies. American
15 General contends that, by reason of the material misrepresentations in the Applications as
16 set forth above, and pursuant to the Federal Declaratory Judgment Statute, 28 U.S.C. §
17 2201 et seq., the Policies are null, void, and rescinded *ab initio* and that no insurance ever
18 began in effect due to the fraudulent and/or material misrepresentations and omission that
19 the applicant made on the Applications.

20 25. The misrepresentations, omissions, concealment of facts, and incorrect
21 statements on the Applications were material and constitute grounds for rescission. If the
22 true facts and information had been made known to American General as required by the
23 Applications, the information would have caused American General's underwriters to
24 reject the Applications. Thus, the misstated or concealed information reasonably could be
25 considered as affecting American General's decision as to whether or not to enter into the
26 contracts, in estimating the degree or character of the risk, or in fixing the premiums.

